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**JAN 25 2011**Attorney Docket No. 70186.12 (M-15345 US)  
Serial No. 10/771,052IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): James T. Richardson, Jr.

Assignee: THE BOEING COMPANY

Title: Intelligent Email Services

Serial No.: 10/771,052

Filing Date: February 2, 2004

Examiner: Van Kim T. Nguyen

Group Art Unit: 2456

Docket No.: 70186.12 (M-15345 US)

Confirmation No.: 1520

Irvine, California  
January 24, 2011**VIA FACSIMILE**Mail Stop Appeal  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**APPEAL BRIEF**

Dear Sir:

Please enter the following appeal brief in response to the Notice of Panel Decision from Pre-Appeal Brief Review dated December 22, 2010.

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**REAL PARTY IN INTEREST**

The real party in interest is The Boeing Company, the assignee of U.S. Application No. 10/771,052.

**RELATED APPEALS AND INTERFERENCES**

There are no related appeals nor are there any related interferences.

**STATUS OF CLAIMS**

Claims 1-17 stand rejected by the final office action dated August 13, 2010.

**STATUS OF AMENDMENTS**

An amendment is concurrently filed with this appeal under 37 CFR 41.33 to cancel claims 9-17. This amendment has not yet been entered. No other amendments have been filed since the final office action dated August 13, 2010.

**SUMMARY OF CLAIMED SUBJECT MATTER**

Claim 1 is the only remaining independent claim since the concurrently filed amendment under 37 CFR 41.33 cancels claims 9-17. Claim 1 is directed to an email method practiced by an intranet web server. The first three elements of claim 1 are conventional email acts. In that regard, it is conventional for an intranet web server to perform the first element of claim 1, which is "at the intranet web server, automatically generating email of an intranet user." Support for this limitation is provided on page 6, lines 16-19 with regard to a ColdFusion-enabled server 110 of Figure 1.

The second element in claim 1 is "at the intranet web server, queuing the automatically-generated email in an email spooler." This is also a routine act for the email arts. Support for this limitation is provided on page 6, lines 16-19 with regard to a ColdFusion email spooler 117 of Figure 1.

The third act in claim 1 is "at the intranet web server, sending the automatically-generated email to a mail server for delivery to an intended recipient via the Internet, the mail

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server interposed between the intranet web server and the Internet.” This again is a routine act for the email arts. Support for this limitation is provided on page 6, lines 20-21 with regard to mail server 120 of Figure 1.

Although the preceding three limitations of claim 1 were conventional, the following series of claim limitations are not. In that regard, claim 1 includes the limitation of “at the intranet web server, if the automatically-generated email is returned from the mail server as undeliverable to the intended recipient the email method includes the acts of: (a) fetching an email address for the intranet web server’s system administrator.” Support for this act is provided on page 6, line 21 to page 7, line 1 (describing the return of the email) and also on page 7, line 23 to page 8, line 1 (with regard to step 215 of Figure 2 showing the fetching of the email address).

Claim 1 also recites “(b) verifying normal operation of the email spooler by examining each email queued in the email spooler to determine the pendency of each email within the email spooler.” Support for this act is provided on page 8, lines 8-21 with regard to act 230 of Figure 2. This act is further described on page 9, lines 22-23 with regard to step 305 of Figure 3 and on page 9, lines 19-21 with regard to step 320 of Figure 3.

Claim 1 further recites “(c) emailing the system administrator regarding an abnormal operation if act (b) verifies that the email spooler is not operating normally.” Support for this act is provided on page 10, lines 19-21 with regard to step 355 of Figure 3.

Claim 1 further recites “(d) processing each undeliverable email to determine whether it was returned because of a problem with the email itself or because of a problem with the mail server.” Support for this act is provided on page 8, line 7 with regard to step 240 of Figure 2. This step is further described on page 9, lines 9-13 with regard to the determination in step 435 of Figure 4.

Claim 1 further recites “(e) resending the undeliverable email to the intended recipient if act (d) determines that an undeliverable email was returned because of a problem with the mail server.” This problem is again with regard to the originating intranet web server. As discussed above, step 435 of Figure 4 determines whether the undeliverable email was returned because of a problem with the mail server (in addition to whether it was a

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problem with the email itself). Support for act (d) is then described on page 12, lines 2-7 with regard to the subsequent act 455 of Figure 4.

### **GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

1) Whether claims 1-3 and 5-8 are unpatentable over Petry (USP 5,941,348) in view of Gupta (USP 7,093,025) and further in view of Shaw (USP 6,249,807)

2) Whether claim 4 is unpatentable over Petry in view of Gupta/Shaw and further in view of Savchuk (2005/0055399)

### **ARGUMENT**

The rejection of claims 1-3 and 5-8 as being unpatentable over Petry in view of Gupta and further in view of Shaw

This matter has been prosecuted over 3 final office actions and one pre-appeal brief request for review. Petry has been the primary reference during this prosecution. Thus one would expect that – for a prima facie case to exist in view of Petry – that Petry disclose or suggest the monitoring of an intranet web server's email spooler. In particular, claim 1 recites the act of "(b) verifying normal operation of the email spooler by examining each email queued in the email spooler to determine the pendency of each email within the email spooler." But this act has is plainly not suggested by Petry as explained below.

To support this act, the August 13, 2010 final action cites to Col. 19, line 60 to Col. 20, line 55 of Petry with regard to a spool delivery manager, which is illustrated in Petry's Figure 12. But as stressed over and over in this matter, Petry cannot possibly monitor the health of the originating intranet web server's email spooler. This is plainly shown by Figure 3, which shows Petry's electronic message management (EMS) system 203 sitting between mail server 202 and the internet 101. This is so because the EMS is directed to blocking spam and email viruses, a problem identified by Petry in Col. 1, lines 37-50. To intercept

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spam, the Petry EMS sits as a proxy for the intended recipient. This is described in Col. 6, lines 16-49. In that paragraph, Petry gives an example domain name for mail server 202 as "anywhere.com." To intercept mail directed to this domain name, the EMS updates the domain name server ((DNS) (element 108 in Figure 1) such that mail directed to the anywhere.com address is sent instead to the EMS. The relationship of the EMS between an originating mail server and the intended recipient is further shown in Figure 3. As seen in Figure 3, an originating email server 102a may send an email to the "anywhere.com" mail server 102c. But the EMS 203 receives the "anywhere.com" email from the originating mail server 102a since the EMS commanded the DNS server to substitute the "anywhere.com" address for the EMS address.

In this fashion, the EMS can intercept spam that was directed to the "anywhere.com" mail server 203 of Figure 2. Now since the EMS is intercepting mail, it too must have a mail spooler. This is shown in Figure 4, which details the "message handling process 320" element of Figure 2. The flow to the EMS mail spooler is shown coming from "spool relay 442." The EMS spooler is further shown in Petry's Figure 12. In that regard, the Petry EMS will query if the intended recipient mail server can accommodate the intercepted mail (which if it is not spam, should be forwarded to the intended recipient) as described in Col. 8, lines 46-51 with regard to step 810 of his Figure 8. If the intended recipient mail server is too busy, the EMS will spool the intercepted mail as shown in step 3 of Figure 12. But this spooling is done on the EMS' own mail spooler – it has nothing to do whatsoever with any of the mail server's spoolers. As seen in the center column of Figure 12, the Petry EMS will check to see if its spool is full. But again, such a check has nothing to do with the health of any spooler in the sender's email server.

Thus, the September 13, 2010 final office action was completely erroneous to cite to Col. 19, line 60 through Col. 20, line 55 of Petry as disclosing or suggesting act (b) of claim 1: instead, that section of Petry is simply discussing the Figure 12 monitoring of the EMS spooler.

More fundamentally: how could the "middle man" approach of Petry ever know anything about the health of the originating mail server's spooler as required by act (b) of

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claim 1? Suppose an originating mail server (take any one of servers 102a through 102d) of Petry's Figure 1) has a bad spooler: that originating mail server will not be sending any email. And if the originating mail server is not sending any email, there is nothing for the Petry EMS to intercept. So from the viewpoint of the Petry EMS, all is fine with the world despite the failure of the originating server's spooler. Indeed, Petry can never know anything about the health of the originating mail server's spooler yet this matter is rejected again and again on this immaterial reference.

This is not the only failure of Petry. In that regard, the August 13, 2010 final office action cites to Col. 9, lines 30-35; Col. 12, lines 47-56; and Col. 20, lines 26-28 of Petry with regard to teaching or suggesting the claim 1 limitation of "(c) emailing the system administrator regarding an abnormal operation if act (b) verifies that the email spooler is not operating normally." Such a claim limitation requires a notification of system administrator for the originating intranet web server if the email spooler for this originating intranet web server is not operating normally. But Col. 9, lines 30-35 of Petry is discussing the "admin" software module 318 of Figure 3: this is for administration of the EMS and has nothing to do with any originating mail server, let alone the originating mail server's spooler. Similarly, Col. 12, lines 47-56 of Petry is discussing the alerts generated in Figure 5. Figure 5 concerns more details about the "message handling process 320" in the EMS of Figure 2. So these alerts are for the administrator of the EMS. And that administrator can never know the health of an originating mail server if that originating mail server's spooler is down because the EMS will simply have no emails to intercept in that case.

Similarly, the August 13, 2010 office action misses the point with regard to the claim 1 limitation of "(d) processing each undeliverable email to determine whether it was returned because of a problem with the email itself or because of a problem with the mail server." This claim limitation requires the parsing of each email to see if the fault lies with the originating mail server or with the email itself. But Petry is simply analyzing emails to see if they are spam: Petry can never know if there is a problem with the originating email server since Petry will receive no emails to intercept in that case. Thus, the citation to Col. 7, lines 48-67 misses the point, this is simply a section of Petry discussing the generation of

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"metadata" used to classify the intercepted emails as set forth in his Table 1. For example, Petry wants to see if the intercepted emails result from a hacker attempting a denial of service attack or an "email bomb" attack. That may be interesting to Petry but has nothing to do with determining if undeliverable mail is undeliverable because of a problem with the email itself or because the originating mail server is down. Similarly, Col. 16, lines 45-60 is again discussing the classification of intercepted email by Petry: that email could never be intercepted if the originating mail server were down such that Petry has no way of monitoring such an originating mail server. Figure 8, steps 806 to 810 is again discussing the classification of intercepted email by Petry and thus does not relate to the health of an originating mail server.

Because Petry fails to disclose or suggest the above-discussed claim 1 limitations, claim 1 is patentable over Petry. The citations to Gupta do not cure these infirmities of Petry. In that regard, Gupta is directed to a proposed modification of the email SMTP protocol such that undeliverable emails are instead directed to an alternative destination. In this fashion, the failure notification to the sender (which is a nuisance according to Gupta, see Col. 1, lines 61-62) is avoided. Thus, the citation to Col. 2, lines 48-53 in Gupta has nothing to do with element (a) of claim 1 – Gupta is instead discussing the means to specify the alternative email recipients in that section. Similarly, the citation to Col. 1, lines 39-59 in Gupta is discussing the conventional notification of a delivery failure to a sender. This is familiar to any email user who sends an email to an inoperative email address but has nothing to do with claim 1. Finally, the citation to Shaw does nothing to cure the infirmities of Petry and Gupta discussed above. Accordingly, claim 1 is patentable over the combination of Petry, Gupta and Shaw.

Claims 2, 3, and 5-8 are patentable over the combination of Petry, Gupta, and Shaw for at least the same reasons.

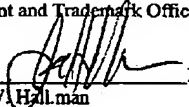
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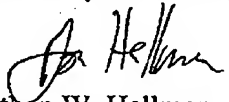
The rejection of claim 4 as being unpatentable over Petry in view of Gupta/Shaw and further in view of Savchuk

The citation to Savchuk does nothing to cure the infirmities of Petry, Gupta, and Shaw discussed above. Accordingly, claim 4 is patentable over the combination of Petry, Gupta, Shaw, and Savchuk.

For the foregoing reasons, the Applicant respectfully requests the Honorable Board to reverse the examiner.

<b>Certificate of Transmission</b>	
Certificate of Transmission: I hereby certify that this correspondence is being transmitted via facsimile to the United States Patent and Trademark Office (USPTO) at 571 273 8300.	
 Jonathan W. Hallman	Dated: <u>January 24, 2011</u>

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**CLAIMS APPENDIX**

1. An email method for an intranet web server, the email method comprising:

at the intranet web server, automatically generating email on behalf of an intranet user;

at the intranet web server, queuing the automatically-generated email in an email spooler;

at the intranet web server, sending the automatically-generated email to a mail server for delivery to an intended recipient via the Internet, the mail server interposed between the intranet web server and the Internet; and

at the intranet web server, if the automatically-generated email is returned from the mail server as undeliverable to the intended recipient the email method includes the acts of:

- (a) fetching an email address for the intranet web server's system administrator;
- (b) verifying normal operation of the email spooler by examining each email queued in the email spooler to determine the pendency of each email within the email spooler;
- (c) emailing the system administrator regarding an abnormal operation if act (b) verifies that the email spooler is not operating normally;
- (d) processing each undeliverable email to determine whether it was returned because of a problem with the email itself or because of a problem with the mail server;
- (e) resending the undeliverable email to the intended recipient if act (d) determines that an undeliverable email was returned because of a problem with the mail server; and

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(f) sending the undeliverable email to the originating intranet user if act (d) determines that an undeliverable email was returned because of a problem with the undeliverable email itself.

2. The method of claim 1, wherein act (a) comprises fetching the email address from a database.

3. The method of claim 1, wherein acts (a) through (f) are repeated periodically.

4. The method of claim 3, wherein acts (a) through (f) are repeated at least every 30 minutes.

5. The method of claim 1, wherein act (b) comprises:

emailing the system administrator regarding each email's pendency if an email's pendency within the email spooler exceeds a normal pendency period from a time initially received by the email spooler,

wherein the normal pendency period comprises a predefined time period including two minutes from the time initially received by the email spooler.

6. The method of claim 5, wherein acts (a) through (f) are repeated periodically, and wherein act (b) further comprises:

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deleting this email from the email spooler and emailing the system administrator that a persistent email spooler problem has been detected if an email has been previously detected as exceeding the normal pendency period.

7. The method of claim 6, wherein act (b) further comprises:

restarting the email spooler if an email has been previously detected as exceeding the normal pendency period.

8. The method of claim 1, wherein acts (a) through (f) are repeated periodically, and wherein act (e) comprises resending the undeliverable email to the intended recipient only if it has not been previously resent to the intended recipient a predetermined number of times

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**EVIDENCE APPENDIX**

None.

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**RELATED PROCEEDINGS**

None.

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